

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**



Application No. 13536, of Julius Goldstein, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to continue the use of a parking lot and for a variance from the prohibition against all-day commuter parking (Sub-paragraph 4101.413) in an SP-2 District at the premises 1114-16 - 13th Street, N.W., (Square 247, Lot 852).

Application No. 13537 of Stuart Marshall Bloch, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to continue the use a parking lot and for a variance from the prohibition against all-day commuter parking (Sub-paragraph 4101.413) in an SP-2 District at the premises 1304-1312 N Street, N.W., (Square 245, Lots 811 and 9).

HEARING DATES: July 29, and September 23, 1981

DECISION DATE: September 23, 1981 (Bench Decision)

ORDER

1. The subject applications are consolidated for the purposes of this Order, since both lots are operated by the same parking company, both applications were filed by the same person, the facts regarding both cases are identical in many respects, and both were disposed of at the same time.

2. By letter of April 23, 1981, the office of the Zoning Administrator advised Mr. Irwin Edlavitch of Atlantic Garage, that the certificate of occupancy for operating a parking lot at premises 1114-16 - 13th Street, N.W., would expire on May 24, 1981 as stipulated by prior BZA Order No. 12613.

3. By letter of February 6, 1981, the office of the Zoning Administrator advised Mr. Edlavitch that the certificate of occupancy for operating a parking lot at premises 1304-1312 N Street, N.W., would expire on March 5, 1981, as stipulated by prior BZA Order No. 12968.

4. In both letters, the Zoning Administrator suggested that the applicant filed his application immediately, so that the cases could be considered prior to the expiration of the present certificates of occupancy. The Zoning Administrator further stated that the use of the premises without a valid certificate of occupancy is a violation of the D.C. Zoning Regulations and will be strictly enforced.

5. The subject application No. 13536 was filed on June 1, 1981, eight days after the certificate of occupancy expired. The subject application No. 13537 was also filed on June 1, 1981, some two months and seven days after the certificate of occupancy expired, and almost four months after the operator was advised to file by the Zoning Administrator.

6. The Board notes that both applications seek a continuance of a parking lot. The subject lots have been in existence for many years. The Board is of the opinion that a prudent man would be aware of the termination date of a certificate of occupancy. It further appears to the Board that the parking lot operator having had applications before the Board many times, should have been aware of the processing procedures before the BZA, in that all applications must be advertised at least thirty days prior to a public hearing and that applications are processed on a first-in first-out basis. There must ensue a time lapse from the date of filing to the date of decision.

7. The Board finds that at the date of the public hearing on September 23, 1981, the subject facility at 1114-1116 - 13th Street has been operating without a certificate of occupancy for over four months, and the other facility has been operating for almost six months without a valid certificate of occupancy.

8. The subject applications were originally advertised for public hearing on July 29, 1981. At the time the applications were filed, Murray Wollstein, an agent for Atlantic Garage, acknowledged that he was advised that "it is the responsibility of the applicant to post a notice of the public hearing on the property." By letters dated June 26, 1981, the Executive Director of the Board of Zoning Adjustment advised Mr. Edlavitch that the two cases were scheduled for public hearing on July 29, 1981. The letters further stated "Please note that a sign must be obtained from the office of the Board of Zoning Adjustment to be posted on the property." At the hearing on July 29, 1981, the Board found no evidence that the notice had been posted on the subject property. Mr. Edlavitch testified that he "neglected to follow through and post the notice." Mr. Edlavitch was further advised by the Board that he was operating the parking lots illegally.

9. Both applications were rescheduled for public hearing on September 23, 1981.

10. Section 3.5 of the Supplemental Rules of Practice and Procedures before the Board of Zoning Adjustment states that at the public hearing on an application to establish or continue a parking lot, the owner of the real property, the lessee, if any, and the operator of the parking lot shall appear before the Board.

11. At the hearing on September 23, 1981, with regard to application No. 13536, Marc Slavin appeared for the lessee, Atlantic Garage, and Colonel Haskell Small appeared representing Julius Goldstein. Neither had written authorization to represent their respective principals. The person who actually operates the lot did not appear.

12. At the hearing Mr. Small testified that the property is not owned by Julius Goldstein, but is in fact owned jointly by Mrs. Goldstein and Mrs. Small, who are sisters. The application form improperly list Julius Goldstein as the owner. There is no written authorization from Mrs. Goldstein and/or Mrs. Small for Atlantic Garage to file and process the subject application. The application is thus not properly before the Board.

13. With regard to application No. 13537, Marc Slavin appeared for the lessee, Atlantic Garage, and Richard Kaufman appeared for the owner, Stuart Marshall Bloch. Only Mr. Kaufman had written authorization from Mr. Bloch. The person who actually operates the lot did not appear.

14. The persons present could not respond of their own knowledge to the questions of the Board concerning the actual operation and plans for the lot.

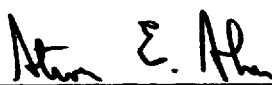
CONCLUSIONS OF LAW:

In consideration of all of the above stated facts, the Board finds a lack of good faith on the part of the applicants in both cases, in not diligently prosecuting both cases before the Board, not being prepared to present the cases adequately and properly at the public hearings and in continuing to operate both lots in violation of the Regulations after having been admonished by the Zoning Administrator's office and the Board itself. The Board notes that the cases were scheduled for hearings on two occasions, and in both instances, the applicants failed to comply with the rules of the Board. It is therefore ORDERED that both applications are DISMISSED. The Zoning Administrator is hereby directed to enforce the provisions of the Zoning Regulations regarding operation of uses without proper authorization and to seek the termination of the two parking lots at issue in cases 13536 and 13537.

VOTE: 5-0 (Charles R. Norris, Walter B. Lewis, Douglas J. Patton,  
Connie Fortune and William F. McIntosh to DISMISS).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 14 OCT 1981

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."